

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

WILLIAM ERIC GREEN,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.


6:13-cv-77

6:02-cr-8

ORDER

Before the Court is William Green's Motion for Reconsideration. ECF No. 7. Green argues that he should be allowed to file a legally first 28 U.S.C. § 2255 motion because one of the state convictions used to enhance his federal sentence fell under Georgia's First Offender Act ("Act"). ECF No. 7 at 1. But a conviction under the Act, even after an order of discharge issues, may be used in calculating a federal defendant's sentence under the Federal Sentencing Guidelines, including the career offender enhancement. *See Gregory v. United States*, No. 4:07-cv-129, 2008 WL 975087, at *2 (S.D. Ga. April 9, 2008) (citing *United States v. Knight*, 154 F. App'x 798, 799 (11th Cir. 2005) ("The Eleventh Circuit has held that a prior conviction under the Georgia First Offender Act counts as a prior conviction for sentencing guidelines . . . purposes.")). And if a discharge under the Act is insufficient to eliminate the conviction from consideration at sentencing, receiving a discharge after sentencing certainly cannot do so. Green's argument for reconsideration fails on the merits. His motion therefore is ***DENIED***.

The 16 day of September, 2013


B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA